

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINARECEIVED
U.S. CLERK'S OFFICE, CHARLESTON, SC

Alvin Keith Brown, Jr,

2014 OCT 10 P 12:20

Petitioner,

Civil Action No. 5:13-2680-RMG

v.

Warden of Kirkland Correctional
Institution,**ORDER**

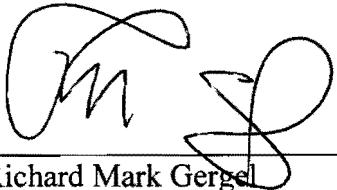
Respondent.

This matter is before the Court on the Report and Recommendation of the Magistrate Judge recommending that this Court dismiss Petitioner's Petition for Writ of Habeas Corpus. (Dkt. No. 37). The Court hereby adopts the Report and Recommendation, grants Respondent's Motion for Summary Judgment (Dkt. No. 27), and dismisses the petition.

Alvin Keith Brown, Jr is a state prisoner who filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent filed a motion for summary judgment and return to the petition, arguing that the petition was filed nearly nine months after Petitioner's statute of limitations had run, and the habeas petition is therefore untimely under 28 U.S.C. § 2244(d). The Magistrate Judge issued a *Roseboro* order advising Petitioner of the motion for summary judgment and dismissal procedures, and Petitioner filed a response. (Dkt. No. 35). The Magistrate judge then issued the R&R, recommending that the Respondent's motion be granted, on September 18, 2014. Upon the issuance of the R&R, Petitioner was advised that any written objections to the R&R must be made within 14 days of service, and that in the absence of timely written objections this Court would provide limited "clear error" review and Plaintiff would waive his right to appeal the judgment of the District Court. (Dkt. No. 37-1). Neither party has filed an objection to the findings and recommendation of the R&R.

The Court has reviewed the R&R, the full administrative record in this matter and the relevant legal authorities. The Court finds that the Magistrate Judge ably and promptly summarized the factual and legal issues and appropriately recommended that the action should be dismissed. Therefore, the Court hereby **adopts** the R&R as the order of this Court, **grants** Respondent's Motion for Summary Judgment, and **dismisses** the petition. A certificate of appealability is **denied**.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

October 10, 2014
Charleston, South Carolina